

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Gerald Smalls, #283282,	)	C/A No. 4:18-3330-HMH-TER
	)	
Plaintiff,	)	
vs.	)	
	)	ORDER
Department of Corrections,	)	
Turbeville Corrections,	)	
Sergeant Witherspoon,	)	
Lieutenant June,	)	
Lieutenant Royas,	)	
Officer Timmons,	)	
Warden Cothran,	)	
Investigator Light Hill,	)	
Warden Leamon,	)	
Vickie Graham,	)	
Major Chavala,	)	
Officer Kennedy,	)	
Warden Dean,	)	
Sergeant Ubel,	)	
	)	
Defendants.	)	

This is a civil action filed by a state prisoner. This case is before the Court due to Plaintiff's failure to comply with the magistrate judge's orders to bring this case into proper form. (ECF No. 7). The order was not returned as undeliverable.

The mail in which the Order was sent to Plaintiff's provided address has not been returned to the court, thus it is presumed that Plaintiff received the Order, but has neglected to comply with the Order within the time permitted under the Order. The Court has not received a response from Plaintiff and the time for compliance has passed. A review of the record indicates that the magistrate judge ordered Plaintiff to submit items needed to render this case into proper form and specifically informed Plaintiff that if he failed to do so, this case would be subject to dismissal.

Plaintiff's lack of response to the Orders indicates an intent to not prosecute this case and subjects this case to dismissal. *See* Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a

Plaintiff fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

**IT IS SO ORDERED.**

Greenville, South Carolina  
January 14, 2019

s/Henry M. Herlong, Jr.  
Senior United States District Judge

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.